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IBM CORP (YA) C/O YEE & ASSOCIATES PC P.O. BOX 802333 DALLAS, TX 75380			EXAMINER TANG, KAREN C	
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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/978,352
Filing Date: October 16, 2001
Appellant(s): AHRENS ET AL.

MAILED

JUN 28 2007

Technology Center 2100

George Henry Ahrens
Chetan Mehta
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 03/28/07 appealing from the Office action mailed 11/20/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6550017

Moiin

4-2003

Applicant Admitted Prior Art, "Description of Related Art" within the specification

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 10-13, 15, and 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA (Applicant Admitted Prior Art, "Description of Related Art" within the Specification) in view of Moiin et al hereinafter Moiin (US 6,550,017).

1. Referring to Claims 1, 10, and 19, AAPA disclosed a method in a data processing system including a logically partitioned computer system and a hardware management console, said hardware management console being a stand-alone system separate from said computer system, a service application being executable by said hardware management console for managing service and placing service calls for said logically partitioned computer, said method comprising the steps of:

including a service partition and a service processor within said logically partitioned computer system (refer to page 2);

AAPA did not expressly indicate monitoring, by said service processor, a presence of said service application executing on said hardware management console;

Art Unit: 2151

Moiin disclosed monitoring, by said service processor (partition monitor, Col 11, Lines 40-67), a presence of said service application (connectivity monitor, refer to Col 8, Lines 40-50) executing on said hardware management console (node, 30.1, 30.2, Fig 1).

AAPA did not expressly indicate the response to an absence of service application to system administrator of said service partition.

Moiin disclosed response to an absence of service application to system administrator of said service partition (refer to Col 12, Lines 1-15).

At the time of the invention, it would have been obvious of ordinary skill in the art to incorporate AAPA with Moiin to response to an absence of service application to system administrator of said service partition.

The suggestion/motivation for doing so would have been by notifying the administrator the failure of the connection, so the administrator can fix the problem, not only decrease the downtime of the system, but also provide the best service to consolidate, evaluate the errors (refer to Col 4, Lines 13-35).

2. Referring to Claims 2, 11 and 20, AAPA disclosed the service processor and service partition (refer to page 2)

AAPA did not disclose comprising the step of reporting, from said service processor, said absence of said service application said service partition.

Moiin disclosed reporting from the service processor, said absence of said service application said service partition (refer to Col 12, Lines 1-15).

Art Unit: 2151

At the time of the invention, it would have been obvious of ordinary skill in the art to incorporate AAPA with Moiin to response to an absence of service application to system administrator of said service partition.

The suggestion/motivation for doing so would have been by notifying the administrator the failure of the connection, so the administrator can fix the problem, not only decrease the downtime of the system, but also provide the best service to consolidate, evaluate the errors.

3. Referring to Claims 3, 12, and 21, AAPA disclosed comprising outputting a signal from said service application utilizing said hardware management console said service processor (refer to page 2);

AAPA did not expressly indicate detecting absence of service application.

Moiin disclosed detecting absence of service application (refer to Col 12, Lines 1-15).

At the time of the invention, it would have been obvious of ordinary skill in the art to incorporate AAPA with Moiin to response to an absence of service application to system administrator of said service partition.

The suggestion/motivation for doing so would have been by notifying the administrator the failure of the connection, so the administrator can fix the problem, not only decrease the downtime of the system, but also provide the best service to consolidate, evaluate the errors.

4. Referring to Claims 4, 13, and 22, AAPA did not disclose: determining that service application is absent in response to absence of said signal.

Art Unit: 2151

Moiin disclosed determining that service application is absent in response to absence of said signal (refer to Col 11, Lines 40-67)

At the time of the invention, it would have been obvious of ordinary skill in the art to incorporate AAPA with Moiin to response to an absence of service application to system administrator of said service partition.

The suggestion/motivation for doing so would have been by notifying the administrator the failure of the connection, so the administrator can fix the problem, not only decrease the downtime of the system, but also provide the best service to consolidate, evaluate the errors.

5. Referring to Claims 6, 15, 24 are AAPA did not disclose the system comprises:

displaying a message utilizing said service partition prompting said system administrator of said service partition to check whether said hardware management console is connected to said logically partitioned computer system;

receiving an entry in response to said message; and

in response to an entry that said hardware management console is disconnected from said logically partitioned computer system, displaying a message to said system administrator to reconnect said hardware management console to said logically partitioned computer system.

Moiin disclosed displaying a message utilizing said service partition prompting said system administrator of said service partition to check whether said hardware management console is connected to say logically partitioned computer system (refer to Col 12, Lines 1-15);

receiving an entry in response to said message (refer to Col 12, Lines 1-15) ; and

Art Unit: 2151

in response to an entry that said hardware management console is disconnected from said logically partitioned computer system, displaying a message to said system administrator to reconnect said hardware management console to said logically partitioned computer system (refer to Col 12, Lines 1-15).

At the time of the invention, it would have been obvious of ordinary skill in the art to incorporate AAPA with Moiin sent the message to administrator indicate the connectionless status between the logically partitioned computer system with the hardware management console.

The suggestion/motivation for doing so would have been by notifying the administrator the failure of the connection, so the administrator can fix the problem, not only decrease the downtime of the system, but also provide the best service to consolidate, evaluate the errors.

Claims 7-9, 16-18, 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA (Applicant Admitted Prior Art, "Description of Related Art" within the Specification) in view of Moiin et al hereinafter Moiin (US 6,550,017) and in further view of Quinlan (US 20020021671).

6. Referring to Claim 7, 16, and 25, AAPA did not disclose in response to an entry of a message that said hardware management console is connected to said logically partitioned computer system, displaying a message utilizing said service partition prompting said system administrator to check physical links between said hardware management console and said logically partitioned computer system;
receiving an entry in response to said message; and

in response to an entry that said physical links are not intact, displaying a message utilizing said service partition prompting said system administrator or reestablish said physical links between said hardware management console and said logically partitioned computer system.

Moiin disclosed in response to an entry of a message that said hardware management console is connected to said logically partitioned computer system, displaying a message utilizing said service partition prompting said system administrator to check links between said hardware management console and said logically partition computer system (refer to Col 12, Lines 1-15); receiving an entry in response to said message (refer to Col 12, Lines 1-15); and

in response to an entry that said links are not intact, displaying a message utilizing said service partition prompting said system administrator or reestablish said physical links between said hardware management console and said logically partitioned computer system (refer to Col 12, Lines 1-15).

At the time of the invention, it would have been obvious of ordinary skill in the art to incorporate AAPA with Moiin that since the arts are analogous.

The suggestion/motivation for doing so would have been by notifying the administrator the failure of the connection, so the administrator can fix the problem, not only decrease the downtime of the system, but also provide the best service to consolidate, evaluate the errors.

AAPA and Moiin did not expressly indicate the links are physical link.

Quinlan disclosed the links are physical (refer to 0051-0056).

At the time of the invention, it would have been obvious of ordinary skill in the art to incorporate AAPA, Moiin and Quinlan due to the fact that they are analogous art.

Art Unit: 2151

The suggestion/motivation would have been that not only to check the logical link but as well as physical links between the device can ensure the tolerance system operation function not only software wise, but as well as hardware.

7. Referring to Claims 8, 17, and 26, AAPA did not response to an entry that said physical links are intact, displaying a message utilizing service partition prompting said system administrator to manually place a service call.

Moiin disclosed response to an entry that said links are intact, displaying a message utilizing service partition prompting said system administrator to manually place a service call (refer to Col 12, Lines 1-15, Col 13, Lines 53-67).

At the time of the invention, it would have been obvious of ordinary skill in the art to incorporate AAPA with Moiin that the administrator place the service call due to the problem in link.

The suggestion/motivation for doing so would have been by notifying the administrator the failure of the connection, so the administrator can fix the problem, not only decrease the downtime of the system, but also provide the best service to consolidate, evaluate the errors.

AAPA and Moiin did not expressly indicate the links are physical link.

Quinlan disclosed the links are physical (refer to 0051-0056).

At the time of the invention, it would have been obvious of ordinary skill in the art to incorporate AAPA, Moiin and Quinlan due to the fact that they are analogous art.

The suggestion/motivation would have been that not only to check the logical link but as well as physical links between the device can ensure the tolerance system operation function not only software wise, but as well as hardware.

8. Referring to Claims 9, 18 and 27, AAPA disclosed not displaying a message utilizing said service partition prompting said system administrator to check physical links between said hardware management console and said logically partitioned computer system; receiving an entry to response to said message; and

in response to an entry that said physical links are not intact, displaying a message utilizing said service partition prompting said system administrator to reestablish said links between said hardware management console and said logically partitioned computer system.

Moiin disclosed displaying a message utilizing said service partition prompting said system administrator to check links between said hardware management console and said logically partitioned computer system (refer to Col 12, Lines 1-15, Col 13, Lines 53-67);

receiving an entry to response to said message (refer to Col 12, Lines 1-15, Col 13, Lines 53-67) and

in response to an entry that said links are not intact, displaying a message utilizing said service partition prompting said system administrator to reestablish said links between said hardware management console and said logically partitioned computer system (refer to Col 12, Lines 1-15, Col 13, Lines 53-67).

At the time of the invention, it would have been obvious of ordinary skill in the art to incorporate AAPA with Moiin that the administrator place the service call due to the problem in physical link.

Art Unit: 2151

The suggestion/motivation for doing so would have been by notifying the administrator the failure of the connection, so the administrator can fix the problem, not only decrease the downtime of the system, but also provide the best service to consolidate, evaluate the errors.

AAPA and Moiin did not expressly indicate the links are physical link.

Quinlan disclosed the links are physical (refer to 0051-0056).

At the time of the invention, it would have been obvious of ordinary skill in the art to incorporate AAPA, Moiin and Quinlan due to the fact that they are analogous art.

The suggestion/motivation would have been that not only to check the logical link but as well as physical links between the device can ensure the tolerance system operation function not only software wise, but as well as hardware.

(10) Response to Argument

The examiner summarizes the various points raised by the appellant and addresses replies individually.

(1) Claim 1-6, 10-13, 15, and 19-24

Appellant argues that the combination of the connectivity monitor of AAPA and Moiin does not teach a service processor or a service application that is executing in a hardware management console.

The examiner disagrees. It is clearly stated in AAPA that the service application maybe executed by the hardware management console, 0005, Lines 3-4.

Further, it is important to note that: one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Appellant argues that the connectivity monitor is not a service processor because it does not monitor anything that is analogous to a service application.

The examiner disagrees.

In the Final office action filed back in November 06, page 4 it is clearly mapped out that the service processor is the partition monitor, and the service application is the connectivity monitor. Therefore, it is never the intention of the Office to map the physical links as analogous to a service application.

Appellant alleges that a node is not analogous to a service application and the connectivity monitor does not monitor any software that executing in the other nodes. *Moiin* does not teach the possibility that the connectivity monitor (CM) could ever be absent.

The examiner respectfully disagrees. Appellant has never, implicitly or explicitly, in the specification or in the Summary of the Claimed Subject Matter of the Appeal Brief or in the Argument Section of the Appeal Brief, indicated what a service application, a service partition, or a service processor is or could be. Appellant, at most, only defines what the capabilities of a service application, a service partition, or a service processor and identifies where they are located within appellant's system.

Art Unit: 2151

Therefore, it is not understood how appellant can firmly state that a node that is a physical device couldn't be service application, especially for example, if a node and service application both provide the same capability defined by appellant's own claim language.

For argument purpose, it was indicated on the Final Office Action filed backed in November 06, that the examiner's position is that the connectivity monitor reads on the claim limitation service application in that it performs the functions of a service application (refer to Col 8, Lines 40-50).

A connectivity monitor, is an application/daemon within the node (refer to Col 8, Lines 45)

Further, a careful reading of the cited references reveals that both AAPA and Moiin have logical partitioning computer systems. Moiin has nodes in the systems (30.0-30.3), which comprises at least one processor, storage, power supply units, and plurality of software in each unit that performs appropriate processing of tasks in each nodes/device refer to Col 5, Lines 5-10. Therefore, a node contains service applications, and other software is performing important tasks in the system. (e.g., management subsystem (AMS), connectivity monitor (CM), global database manager (GDM) and liveliness monitor in Fig 3, and Col 7, Lines 1-5). Moiin indicates that each node is connected in order to exchange control information, and/or enable programming and control of the nodes (refer to Col 5, Lines 55-65), Moiin further suggests that the partition manager can also be one of the nodes (Col 6, Lines 1-5).

Moreover, the connectivity monitor *IS* the service processor, the connectivity monitor has the capability to monitor presents of other nodes (functioning of the nodes, refer to Col 5, Lines 50-67 and Col 11, Lines 63-67). Further, the connectivity monitor exchanges signal information (heart beat), which ensure that all failures up to the TCP layers are covered (software), or it will be based on the interrupt handling mechanism, it being noted that the latter will provide less

Art Unit: 2151

coverage for software faults (therefore, it does monitor the software faults, refer to Col 11, Lines 55-67).

Appellant argues that the partition monitor is also not analogous to either a service processor or a service application.

The examiner disagrees. Partition Monitor monitors the connectivity information from each node (which contain software, so the Partition Monitor is monitoring the nodes that contains software). If there is no connectivity information being received, it is apparent that the node is not functional (software application is not available, refer to Col 6, Lines 15-30). Therefore, the Partition Monitor does perform the monitoring function.

Appellant argues that Moiin does not teach monitoring a service application. The examiner disagrees. The Moiin system determines whether or not there is "ON" signal. This *is* a monitoring action. Appellant has not specifically defined monitoring in the specification. Accordingly, this terminology is given its broadest reasonable interpretation and is considered by the examiner to read on an interrupt, or as would be understood by one of ordinary skill in the art as "to watch, keep track of, or check usually for a special purpose". Therefore, Moiin's system keeps track of the signal coming from the nodes (which comprises software), and determines the presence or absence of the application.

Appellant argues that Moiin does not, however, teach the possibility that the connectivity monitor (CM) could ever be absent, and does not teach monitoring a presence of the connectivity monitor.

The examiner disagrees. The connectivity monitor resides within the nodes, when the software fails (e.g., connectivity monitor fails) as indicated on Col 11, Lines 60-67, which causes the connectivity signal to not be sent by the particular nodes (connectivity monitor is responsible to send the heart beat signal to indicate whether or not the nodes is alive, refer to Col 11, Lines 57). Therefore, Moiin does teach that the CM could be absent and teaches monitoring a presence of the connectivity monitor.

Appellant argues that Moiin does not teach or suggest a service application where the presence of that service application is monitored.

The examiner disagrees. It is the service processor that monitors the presence of the service application. As indicated before, the Partition Monitor (service processor) received the connectivity information from the connectivity manager (service application), so when the connectivity manager fails (Col 11, Lines 57), no connectivity signal will be received (refer to Col 6, Lines 15-30, Col 11, Lines 5-10).

Appellant argues that Moiin does not teach or suggest a service partition.

The examiner disagrees. As indicated before, appellant has never defined , implicitly or explicitly what a service partition is. However, it appears that appellant intended to use the service partition to inform the system administrator when the service application is absent. Thus,

Moiin discloses this limitation by teaching the act of disclosing to the system administrator when the service application is absent (refer to Col 12, Lines 12-15). Therefore, Moiin's system has the service partition, which is the act of informing system administrator.

(2) Claims 7-9, 16-18, and 25-27

Appellant repeats the same arguments as set forth with respect to the eleventh group of claims. The examiner respectfully directs the Boards attention to the response to these arguments above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

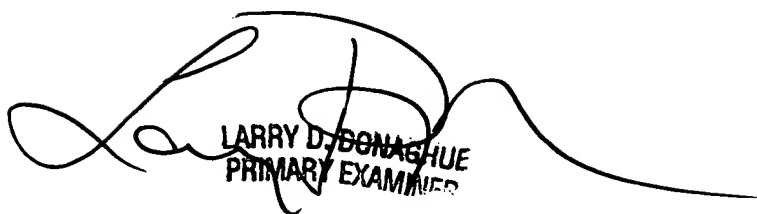
Karen Tang



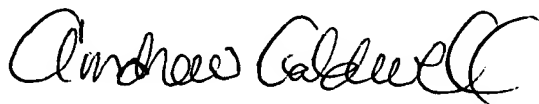
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Art Unit: 2151

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